



State of New Hampshire
DEPARTMENT OF SAFETY
BUREAU OF HEARINGS

James H. Hayes Safety Building, 33 Hazen Drive, Concord, NH 03305

REPORT OF HEARINGS EXAMINER

RESPONDENT: Josephine Amatuucci

DOB: 09/27/1938

HEARING DATE: 08/11/2022

HEARING LOCATION: Concord

DMV FILE #: NHI11884363

DOS HEARING #: IIR202211709

REFERENCE: REVIEW OF DRIVER'S EXAMINATION FAILURE 0033

PRESIDING HEARING EXAMINER: Ryan McFarland, Esq.

RESPONDENT REPRESENTED BY: Self

OTHER PERSON(S) PRESENT: Michael Mercier – DMV, Christopher Clark – DMV, and Margherita Savarese.

The Examiner advised on the scope of the hearing, that the hearing is open to the public, the respondent's right to a copy of the audio recording and the appeal procedure.

LIST OF EXHIBITS:

1. Request for Administrative action dated 12/29/2021
2. Red Card Request Disposition

SYNOPSIS OF EVIDENCE:

The record reflects that the respondent was ordered to appear for a driver reexamination ordered by the Director of Motor Vehicles as a result of a Request for Administrative Action submitted by the New Hampshire State Police. The request from the New Hampshire State Police detailed three separate interactions with three separate New Hampshire State Troopers that raised concerns regarding the Respondent's ability to safely operate a motor vehicle. The request also detailed concerns that Judge Courtway of the Ossipee District Court had after finding the Respondent guilty of the two separate complaints that were filed in that court.

Mr. Mercier testified that the Respondent failed to appear at her scheduled driver re-examinations on 04/21/2022, 05/27/2022, and 06/20/2022; and cancelled an appointment scheduled for 05/16/2022. Mr. Mercier testified that based upon the three failures to appear, a

Red Card request was submitted for the immediate suspension of the Respondent's license/operating privileges.

The Respondent testified that she was not found guilty at the Court and that her right were being violated by this process. The Respondent testified that she was not going to subject herself to the re-examination until the process could be adequately explained to her.

LEGAL ANALYSIS

Pursuant to RSA 263:7, the Director of Motor Vehicles has the legal authority to require a license holder to undergo a reexamination based on cause, in order to establish that such person is fit to drive. In this case, the respondent challenges the director's good cause.

A review of the Request for Administrative Action submitted by the State Police details three separate interactions with three separate New Hampshire State Troopers in which the Respondent failed to follow the motor vehicle laws and then proceed to argue with the Trooper on the side of the roadway. The Request for Administrative Action also details the concerns that the presiding Judge had after finding the Respondent guilty on both charges that were before the Ossipee District Court. Based on the information, the director had cause to require the respondent to complete a reexamination. Therefore, the director's determination is upheld.

FINDINGS OF FACT:

1. The respondent failed to appear 3 times for a driver reexamination.
2. The basis for the request for a test is due to a Request for Administrative Action submitted by the New Hampshire State Police.
3. Based on the evidence, the director had sufficient cause to require the respondent to take a driver re-examination.
4. The respondent was scheduled for 3 examinations and did not appear.

CONCLUSION OF LAW:

The respondent may take three (3) Driver Re-examinations, and upon successful completion of the Driver Re-Examinations shall be eligible for restoration of license/operating privilege and issuance of a license pursuant to RSA 263:59 and 263:7.

DISPOSITION:

SUSPENSION of license/operating privileges effective on the date indicated in the DMV notice remains in effect. The respondent may take three (3) Driver Re-Examinations. If she is successful, she will be eligible for license reinstatement.


Prior to reinstatement, the respondent must pay the \$100 reinstatement fee and any other requirements of the Department of Motor Vehicles.

Appeal rights (RSA 269:76): Any person aggrieved by the decision of the Director of the Division of Motor Vehicles, may appeal to the superior court in the county wherein he/she resides **WITHIN 30 DAYS FROM THE DATE OF THIS ORDER**

Pursuant to Saf-C 203.26, this appeal does not postpone or delay the suspension resulting from the action by the Director of the Division of Motor Vehicles.

Date of Order: September 21, 2022

A copy of this report and order was emailed to the Respondent and Mr. Mercier on September 21, 2022.



Ryan N. McFarland, Esq.
Chief Hearings Examiner

3/15/24

State of New Hampshire



NEW HAMPSHIRE
DEPARTMENT OF SAFETY

DEPARTMENT OF SAFETY
DIVISION OF MOTOR VEHICLES
LAPES - NEW HAMPSHIRE
INDEPENDENT COUNCIL ON DRUGS
AND ALCOHOL

ELIZABETH GILLEY
DIRECTOR OF MOTOR VEHICLES

RED CARD REQUEST

Name: Josephine Amatucci of Wolfeboro DOB: 09/27/1938

License # NHL19257911

Requested by: NH State Police - Troop E

Action Requested: Re-Exam

Notes:

Recommendation: Name: Date:

Disposition: *Re-Exam*

Director's Signature: *John C. Marano*

Date: *3/15/24*

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Josephine Amatucci

v.

Case No. 1:24-fp-223

FNU Rae, et al

NOTICE - FILING FEE OMITTED

Documents necessary to process your case were not included with your filing. You must pay the applicable filing fee or file an Application to Proceed Without Prepayment of Fees or Costs by September 24, 2024. This matter will not be considered a civil case and no action will be taken by the court on it until the appropriate fee has been paid or an application to proceed without prepayment has been granted.

Filing Fee: The filing fee for your case is \$405.00 (\$350.00 filing fee plus \$55.00 administrative fee), and may be paid in cash, by certified cashier or bank check or money order (made payable to Clerk, U.S. District Court), or by credit card (Visa, MasterCard, Discover, or American Express). The court does not accept personal checks.

Proceed Without Prepayment of Fees or Costs: If you want to proceed without prepayment you must complete and file an Application to Proceed Without Prepayment of Fees or Costs.

By the Court,

/s/ Erica DiFabio
Erica DiFabio
Deputy Clerk

Date: July 24, 2024

Attachments



**DEPARTMENT OF SAFETY
BUREAU OF HEARINGS**

James H. Hayes Safety Building, 33 Hazen Drive, Concord, NH 03305

Tel: (603) 271-3486

Speech/Hearing Impaired

TDD Access Relay NH 1-800-735-2964

May 23, 2022

Josephine Amatucci
PO Box 272
Wolfeboro Falls, New Hampshire 03876

Re: DOB: 09/27/38

Dear Ms. Amatucci:

Please be advised that I have reviewed your hearing request. At this time, you must appear for a driver re-examination as scheduled. Whether to order a re-examination is not subject to review at a hearing. Therefore, your request for a hearing is respectfully denied.

Very truly yours,

A handwritten signature in black ink, appearing to read "Christopher Casco".

Christopher Casco, Esq.
Administrator

/pas